

Title Loan Administrative Rules

RULE I (2.59.1401) DEFINITIONS For the purposes of the Montana Title Loan Act and this subchapter, the following definitions apply:

(1) "Commissioner" means the commissioner of banking and financial institutions provided for in 32-1-211, MCA.

(2) "Department" means the department of administration established in 2-15-1001, MCA, and includes the commissioner of the division of banking and financial institutions.

(3) "Extension" means an agreement whereby the licensee agrees to extend the due date beyond the term of the original title loan without releasing the security interest on the titled property.

(4) "Original title loan" means the title loan agreement which is the basis for taking possession of the title and perfecting a security interest in the titled property.

(5) "Redemption date" is the maturity date of the original title loan and any subsequent renewals or extensions.

(6) "Renewal" means extension.

AUTH: 31-1-802, MCA

IMP: 31-1-804, 31-1-810, 31-1-812, MCA

RULE II (2.59.1402) LICENSING AND APPLICATION REQUIREMENTS
- EXCEPTIONS (1) Except for those entities listed in (2), all persons or lenders must obtain a license under this rule in order to issue title loans. Persons or lenders that are licensed under the Consumer Loan Act, 32-5-101, MCA, and Deferred Deposit Loan Act, 31-1-701, MCA, are not exempt from the licensing requirements of 31-1-801, MCA.

(2) The following are exempt from the licensing requirements:

- (a) federal and state chartered banks;
- (b) federal and state chartered savings and loans;
- (c) federal and state chartered credit unions;
- (d) trust companies; and
- (e) investment companies.

(3) All existing or proposed licensees shall file with the department an application in order to engage in title lending.

(4) An application must be in writing on a form prescribed by the department and verified under oath. Application forms are available from the Division of Banking and Financial Institutions, Department of Administration, 301 S. Park, P.O. Box 200546, Helena, MT 59620-0546.

(5) In addition to any other information that may be required by 31-1-805, MCA, the application shall contain the following information in the application format prescribed by the department:

(a) biographical data concerning the applicant, the applicant's owners, parent company, affiliates, or subsidiaries as specified by the department;

- (b) information concerning the applicant's character, experience, qualifications; and
- (c) financial information about the applicant.

AUTH: 31-1-802, MCA

IMP: 31-1-804, 31-1-805, 31-1-811, MCA

RULE III (2.59.1405) OWNERSHIP CHANGE (1) In the event there is a change of ownership in a licensee, the owner(s) shall file with the department an application for a new license. For purposes of this rule, a change in ownership includes circumstances when 25% or more of the ownership is transferred to a new owner.

AUTH: 31-1-802, MCA

IMP: 31-1-805, MCA

RULE IV (2.59.1406) EXAMINATION OF TITLE LENDERS (1) The department shall conduct an examination of each title loan licensee's lending operations to ensure compliance with both statute and administrative rule.

(2) The examination shall consist of a comprehensive review of the records, operations and affairs of the licensee. The review shall include inquiry into:

- (a) accounting and financial records;
- (b) records of the borrower's files including:
 - (i) evidence of required disclosures;
 - (ii) use of the loan agreement on file with the department; and
 - (iii) assurance of continued bonding.

AUTH: 31-1-802, MCA

IMP: 31-1-810, MCA

RULE V (2.59.1409) DURATION OF LOANS – INTEREST – EXTENSIONS

(1) Each original title loan must have a term of 30 days.

(2) The loan agreement may provide for automatic 30-day renewal periods beyond the original term if principal and interest are not paid in full on the maturity date. Any automatic 30-day renewal period must be clearly stated on the face of the loan agreement in bold, capital letters. In addition to any other disclosures that may be required by law, licensees must provide the borrower, in the original title loan agreement or by addendum, a statement of the principal and interest due over a six-month period if the borrower fails to make any payments as set forth in Illustration A below. Such statement must be initialed by the borrower at the time of the original loan and include the borrower's affirmation that the borrower has been shown and read the statement.

Illustration A

	Principal	Interest Per Month at 25%	Accrued Interest at 25%	Total Amount Due
Original Loan	\$500.00	\$125.00	\$125.00	\$ 625.00
Renewal 1	\$500.00	\$125.00	\$250.00	\$ 750.00
Renewal 2	\$500.00	\$125.00	\$375.00	\$ 875.00
Renewal 3	\$500.00	\$125.00	\$500.00	\$1,000.00
Renewal 4	\$500.00	\$125.00	\$625.00	\$1,125.00
Renewal 5	\$500.00	\$125.00	\$750.00	\$1,250.00
Renewal 6	\$500.00	\$125.00	\$875.00	\$1,375.00

(3) On any loan containing an automatic 30-day renewal provision, at the time of each renewal licensees must provide in person or by mail at the borrower's last known address, an updated truth in lending statement.

(4) Interest may not compound from one extension or renewal to another.

(5) A licensee shall not extend or grant any additional credit other than that which was granted in the original title loan agreement without first requiring full payment of all principal and interest due on the original title loan, or any subsequent extensions, and releasing the security interest in the titled property.

(6) Licensees may not issue a new original loan to pay off the previous original loan.

AUTH: 31-1-802, MCA

IMP: 31-1-816, MCA

RULE VI (2.59.1410) EXTENSIONS - REDUCTION OF PRINCIPAL

(1) Subject to (2), beginning with the sixth extension and for each subsequent extension, the borrower must pay at least 10% of the original principal amount along with all accrued interest before an extension may be granted.

(2) In the event that a borrower fails to reduce the principal and interest as required in (1), a licensee at its option may either:

(a) declare the full outstanding principal and interest due and payable; or

(b) reduce the amount of principal balance used to calculate interest by 10% every 30 days beginning 180 days from the beginning of the original title loan agreement. In such event, the licensee must comply with all the requirements of [New Rule V] for extensions.

(3) Under no circumstances may a licensee charge interest or fees beyond the fifteenth extension.

AUTH: 31-1-802, MCA

IMP: 31-1-816, MCA

RULE VII (2.59.1413) REPORTS (1) The following must be reported to the department:

- (a) any instances of theft within 10 days of the discovery of the theft;
- (b) any change in managers within 10 days of each occurrence; and
- (c) all officer questionnaires must be answered within 10 days of the end of any examination.

AUTH: 31-1-802, MCA

IMP: 31-1-815, MCA

RULE VIII (2.59.1414) SCHEDULE OF CHARGES (1) Every licensee under the Montana Title Loan Act shall file with the department in duplicate, at the time of filing application for such license or license renewal, a full and accurate schedule of all charges, fees and costs as follows:

- (a) interest rate;
- (b) non-sufficient fund fees;
- (c) lien recording and release fees;
- (d) examples of typical loan amounts including principal, interest and fees; and
- (e) a statement that storage fees and repossession fees shall be added to amount due based upon actual cost of these services to the licensee.

(2) Licensees shall display such schedule prominently in each licensed place of business where loans are made or negotiated so as to be easily readable by borrowers and prospective borrowers.

AUTH: 31-1-802, MCA

IMP: 31-1-816, 31-1-817, 31-1-818, MCA

RULE IX (2.59.1416) EMPLOYEES' CHARACTER AND FITNESS (1) Licensees are responsible for conducting appropriate background checks on all new employees hired after May 1, 2006. At a minimum, each licensee shall:

- (a) require completion of employee criminal background questionnaire;
- (b) verify and document employment and personal references; and
- (c) within 10 days of start of employment, request a Montana criminal records check from the department of justice.

(2) If the background check demonstrates any criminal convictions involving fraud or financial dishonesty or civil judgments involving fraudulent or dishonest financial dealings, the licensee cannot employ such person, or if already employed, must terminate employment.

(3) Verification of compliance with this rule shall occur during annual examinations. Licensees are required to keep accurate employment records on each employee to ensure that the department is able to verify compliance.

AUTH: 31-1-802, MCA
IMP: 31-1-805, MCA

RULE X (2.59.1417) PROCEDURAL RULES FOR HEARINGS AND
DISCOVERY

(1) In the case of hearings concerning the issuance, suspension, revocation, or other enforcement actions pertaining to a licensee, hearings and related discovery shall be done under the Montana Administrative Procedure Act implementing the revised attorney general's model rules effective June 4, 1999.

(2) The Department of Administration, Division of Banking and Financial Institutions, adopts and incorporates by reference the attorney general's model rules effective June 4, 1999 as found in ARM 1.3.101 through 1.3.233, along with the accompanying forms. A copy of the attorney general's rules may be obtained from the Division of Banking and Financial Institutions, Department of Administration, 301 S. Park, P.O. Box 200546, Helena, MT 59620-0546.

AUTH: 31-1-802, MCA
IMP: 31-1-811, 31-1-812, MCA